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The UK-EU Withdrawal Agreement Joint Committee: functions and tasks

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Summary

The UK-EU Withdrawal Agreement (WA) set out arrangements relating to the UK's exit from the EU. It established a Joint Committee, which is responsible for the implementation and application of the Agreement. The UK and EU will seek to resolve any disputes regarding the application of the Agreement within the Joint Committee. But if no solution can be reached, disputes will be referred to an arbitration panel.

The Joint Committee is co-chaired by senior UK and EU representatives and decisions have to be agreed by both sides. There are six specialised committees that sit below the Joint Committee. These cover specific parts of the WA, including citizens' rights, financial provisions and the Protocol on Ireland/Northern Ireland.

The Joint Committee has powers to amend the WA in a limited number of areas, but cannot amend essential elements of the WA. The WA delegated some arrangements relating to UK separation from the EU and to governance of the agreement to the Joint Committee to decide upon. This includes tasks relating to the implementation of the Protocol on Ireland/Northern Ireland. Some of these tasks need to be completed by the end of transition period (31 December 2020) and remain outstanding.

1. Introduction

Following the UK's decision to leave the EU, the two sides drew up a [Withdrawal Agreement](#) (WA) that set out how the UK's exit would work. A final version was agreed by the UK and EU negotiating teams in October 2019. This Agreement came into force on 31 January 2020 after being ratified by both the UK and EU.¹

The WA established a Joint Committee, which is "responsible for the implementation and application of [the] Agreement" (Article 164). Decisions need to be jointly agreed by the UK and EU. The Committee is co-chaired by the UK and the EU. The Chancellor of the Duchy of Lancaster, Michael Gove, co-chairs for the UK (with the Paymaster General,

¹ For more information on the Joint Committee and the governance structures established by the WA, see section 7 of Commons Library briefing paper 8453 [The UK's EU Withdrawal Agreement](#). Note this briefing was on the November 2018 version of the WA. The WA was revised in October 2019, but the governance structures and the main body of the agreement remained unchanged. The Protocol on Ireland/Northern Ireland was substantially revised. See Commons Library briefing paper 8713, [The October 2019 EU UK Withdrawal Agreement](#) for detail on these revisions.

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Penny Mordaunt, as his alternate).² European Commission Vice-President Maroš Šefčovič co-chairs for the EU. The Joint Committee held its first meeting on 30 March, and a second meeting on 12 June. Its next meeting is expected to take place in September.

Below the Joint Committee sit six 'Specialised Committees' that cover the following parts of the Withdrawal Agreement:

- Citizens' rights
- Other separation provisions
- Protocol on Ireland/Northern Ireland
- Protocol on Sovereign Base Areas in Cyprus
- Protocol on Gibraltar
- Financial provisions

While discussions on the above areas will take place in these Specialised Committees, under the WA only the Joint Committee can make binding decisions. The Joint Committee will decide on the tasks of the Specialised Committees and supervise their work. It may also establish other Specialised Committees.

Under the rules of procedure of the Joint Committee (Annex VIII of the WA), meetings can be held by videoconference or teleconference. This was the case with the first two meetings. The co-chairs can also decide to use a written procedure to take decisions between meetings. However, [section 15C of the EU \(Withdrawal\) Act 2018](#) prohibits UK Ministers from agreeing to use the written procedure in the Joint Committee.³

1.1 Power to amend the WA

In addition to the specific tasks given to the Joint Committee by the WA, the Committee has a power to adopt decisions to amend the WA itself for a limited set of reasons. These are where

such amendments are necessary to correct errors, to address omissions or other deficiencies, or to address situations unforeseen when [the WA] was signed, and provided that such decisions may not amend the essential elements of the [WA]. (Article 164(5)(d)).

This power does not however apply in relation to part one (common provisions), part four (the transition period) and part six (institutional and final provisions) of the WA.

The EU proposed several amendments to the WA at the Joint Committee meeting of 12 June, to address what it called "omissions and deficiencies".⁴ The amendments were:

- changing dates referred to in the original Withdrawal Agreement, which had not been changed to reflect the fact that the Agreement had entered into force in January 2020 rather than March 2019 as originally expected;
- an amendment to provide legal certainty regarding grants made under the Research Fund for Coal and Steel;
- the inclusion of decisions by the Administrative Commission for the Coordination of Social Security Systems that had not been included in the original WA; and

² Section 15B of the [EU \(Withdrawal\) Act 2018](#) requires that the function of the UK co-chair be exercised only by a Government Minister.

³ As with section 15B, this provision was added by the [European Union \(Withdrawal Agreement\) Act 2020](#)

⁴ The EU's proposed amendments were set out in [Council Decision \(EU\) 2020/769](#) of 10 June 2020.

- the inclusion of eight EU Acts to the list of EU legislation applying under the Northern Ireland Protocol, which the EU Council considered “essential for the application of the rules of the internal market for goods to Northern Ireland”.

The UK Government accepted some, but not all, of these amendments. The Government confirmed that the Joint Committee had agreed to adopt the amended references to dates, changes relating to the Research Fund for Coal and Steel, and changes relating to Social Security Coordination.⁵ However, the Chancellor of the Duchy of Lancaster has stated that the Government “did not consider or discuss the EU’s proposals on the Ireland/Northern Ireland (NI) Protocol amendments.” He explained “our position was that we wanted further time to scrutinise the proposals, and that they would need to be considered in the round, alongside the four negotiating tasks assigned to the [Joint Committee] within the Protocol”.⁶

1.2 Dispute settlement

The UK and EU will seek to resolve any disputes regarding the application of the agreement through “good faith” consultations in the Joint Committee (Article 169). But if no solution can be reached, disputes will be referred to an arbitration panel (Article 170). The WA gives the Joint Committee the task of establishing a list of 25 persons able to serve on an arbitration panel (see section 2 below). The UK and EU will each propose ten and they will jointly propose five persons to act as panel chairs. The panels will have five members: two each from the UK and EU listed nominees, and one from the list of jointly proposed chairs. Where the UK and EU cannot agree on a chair, the chair can be drawn by lot from the jointly proposed list of chairs.

The panel members should be independent from either the UK Government or EU institutions and have qualifications required to hold the highest judicial office in their respective countries or “jurisconsults of recognised competence” (Article 172). Arbitration panel rulings are binding on the UK and EU. Failure to comply can result in the imposition of a penalty payment, and non-compliance would ultimately entitle the complainant to suspend certain treaty obligations or elements of other UK-EU agreements (Article 178).

The Court of Justice of the EU (CJEU) has a role in providing interpretations of EU law, where a dispute submitted to arbitration raises a question of interpretation of EU law. Where the CJEU gives such an interpretation, this will be binding on the arbitration panel (Article 174).

2. Tasks to be completed by the Joint Committee

The WA did not set out the detail of all arrangements relating to the UK’s withdrawal from the EU. It delegated some tasks to the Joint Committee to implement or decide upon.

Some of these tasks have specific deadlines. This includes tasks with deadlines that fall before the end of the transition period that ends on 31 December 2020. Other tasks are ongoing and will continue for as long as the WA is in force.

⁵ Amendments to the Withdrawal Agreement: [Written statement - HCWS365](#)

⁶ [Letter from Chancellor of the Duchy of Lancaster to Chair of the European Scrutiny Committee](#), 13 July 2020.

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There are also tasks that would only be undertaken by the Joint Committee in certain circumstances. For example, if either the UK or EU had requested an extension of the post-Brexit transition period before 1 July (the deadline for such a request), the decision on extending the transition would have had to be made by the Joint Committee. The Joint Committee would also have had to establish the UK contribution to the EU budget during the extended transition period, and make decisions relating to the terms of UK participation in EU programmes and limits to UK agricultural subsidies during the period (Article 132).

The WA requires the Joint Committee to take decisions related to the establishment of the governance and dispute settlement arrangements outlined by the WA itself. These include:

- A decision on the tasks of the six Specialised Committees (Article 164). This decision was taken at the [first meeting of the Joint Committee](#) on 30 March.
- The establishment of the list of 25 persons to serve on the arbitration panel (see section 1.2 above). This task should be completed by 31 December 2020, but under Article 171(8) of the WA the UK and EU can nominate members of an arbitration panel where required if the envisaged list has not been established in time.⁷
- From 1 January 2021, the Joint Committee will be the forum for consultations to resolve disputes regarding the interpretation and application of the WA (with the possibility of referring disputes to an arbitration panel). It will also have the ongoing task of keeping the function of the WA dispute settlement procedures under “constant review”. It can amend the Rules of Procedure on dispute settlement set out in Annex 9 of the WA (Article 172).

The WA also sets out specific tasks for the Joint Committee under its citizens rights (Part Two), separation (Part Three) and financial settlement (Part Five) provisions and in relation to the Protocol on Ireland/Northern Ireland. All these tasks remain outstanding at the time of writing. However, in several cases the Joint Committee is not expected to undertake the task until after the transition period ends. In other cases the Joint Committee is not required to undertake the task unless it decides that a change or action is necessary. The tasks are identified below:

Citizens’ rights (Part Two)

- The Joint Committee has the power to revise parts of Annex I of the WA on social security coordination (Article 36).
- The Joint Committee shall assess the functioning of the Independent Authority established to monitor the implementation of the citizens’ rights provisions in the UK. It may decide following the assessment that the UK can abolish the Authority. This assessment cannot take place until at least eight years after the end of the transition period (Article 159).

Separation provisions (Part Three)

- The Joint Committee shall determine how to address differences between estimated and “actual costs” incurred by the EU for facilitating continued UK access to EU customs, excise and VAT systems for temporary periods following the transition period in the event of a dispute (Articles 50, 53, 99 and 100)
- The Joint Committee shall determine how to address differences between estimated and “actual costs” incurred by the EU for facilitating continued UK access to EU

⁷ In this scenario, if the UK and EU cannot agree on an arbitration panel chair, the Secretary-General of the Permanent Court of Arbitration will propose one.

justice and home affairs databases for a temporary period after the transition period in the event of a dispute (Articles 62 and 63)

Financial Settlement (Part Five)

- The Joint Committee may adopt technical measures to facilitate the orderly closure of programmes or activities in which the UK participates and which are funded by the EU's Multiannual Financial Framework (MFF) 2014-20 (or earlier MFFs) (Article 138).

Protocol on Ireland/Northern Ireland

The Protocol on Ireland/Northern Ireland set out a range of tasks for the WA. They broadly fit into three categories:

- firstly, decisions that should be taken by the end of the transition period (if possible);
- secondly, decisions that would ideally be decided by the end of the transition period as they might allow Northern Ireland to take advantage of exemptions from customs duties or EU state aid rules and give businesses and individuals time to prepare for their implementation; and
- thirdly, ongoing tasks to ensure the Protocol is working as intended.

Decision to be taken before the end of the transition period

- To ensure the correct application of customs duties, the Joint Committee needs to decide the following: the conditions under which a good brought into Northern Ireland from outside the EU is considered *not* to be subject to commercial processing (taking into account the nature, scale and result of the processing); and the criteria for determining whether a good brought into NI from outside the EU is *not at risk* of being subsequently moved into the EU (Article 5(2) NIP). The Protocol says this decision should be made "before the end of the transition period".

A decision could be made after this time. However, it would mean that in the interim all goods coming into Northern Ireland would default to being considered at risk, and would be subject to the customs duties agreed to in the EU/UK trade agreement, or if there is no agreement, to the EU's Most Favoured Nation tariff schedule (often known as 'WTO terms').

Decisions that ideally would be made by the of the transition period:

- The Joint Committee can take a decision to establish the conditions under which certain fishery and aquaculture products brought into the EU's customs territory by UK-flagged ships registered in Northern Ireland are to be exempt from customs duties (Article 5(3) NIP). If no decision is made then they will be treated as if they originated from Great Britain (the rest of the UK), and potentially subject to customs duties (tariffs).
- The Joint Committee should decide on the initial level of subsidy the UK can make to support agricultural production in Northern Ireland (Article 10(2) and Annex 6 NIP). If it does not make an initial decision by the end of the transition period, then the agricultural subsidies could become subject to the EU's state aid regime. Further decisions will potentially need to be taken to adjust to changes in the EU's Multiannual Financial Framework (MFF). If these decisions are not made within one year of a new MFF being agreed, then again the subsidies could be subject to the state aid regime.
- The Joint Committee is tasked with determining the practical arrangements by which EU representatives may "be present" during, and access information relating to, the UK's implementation of the NIP (Article 12(3) NIP). There is no deadline given for this decision, but it might make relations between the two sides more difficult if this is not resolved by the end of the transition period.

Ongoing Joint Committee tasks:

Ongoing tasks for the Joint Committee relating to the NIP following the end of the transition period are as follows:

- The Joint Committee is to keep under constant review the UK/EU's "best endeavours" to facilitate trade between Northern Ireland and the rest of the UK, and make recommendations with a view to avoiding controls at ports/airports in Northern Ireland to the extent possible (Article 6 NIP).
- The Joint Committee is to "regularly discuss" the implementation of EU VAT and excise rules in Northern Ireland and adopt measures for their proper application as necessary (Article 8 NIP).
- The Joint Committee is to keep under constant review the extent to which the application of the NIP maintains the necessary conditions for North-South cooperation, with a power to make appropriate recommendations to the EU and the UK (Article 11 NIP).
- The Joint Committee is to determine whether new EU acts adopted after transition which are within the scope of the NIP (and do not amend or replace acts already listed in the Annexes to the Protocol) should be included in the relevant Annex (Article 13(4) NIP).
- The Joint Committee will hold consultations with the aim of finding a solution where the UK or EU is considering taking unilateral safeguard measures to address "serious economic, societal or environmental difficulties" arising under the Protocol (Article 16 and Annex 7 NIP).

The Joint Committee would also have a role in making recommendations in the event that the Northern Ireland Assembly decides to withhold consent to the continued application of Articles 5-19 of the NIP (Article 18 NIP). This task is not yet applicable as the earliest the Northern Ireland Assembly could withhold consent is 1 January 2025.

UK Government Command Paper

In May 2020 the UK Government [published a Command Paper](#) (CP) that set out its approach to implementing the Northern Ireland Protocol.

The parts of the CP that are most relevant to the Joint Committee tasks are as follows:

- **'At risk goods'**: The UK Government in the CP argues that "internal UK trade" has no impact on the EU market and does not pose a risk to that market. The CP says that "this principle needs to be formalised with the EU within the Withdrawal Agreement Joint Committee".

The CP goes on to state that "tariffs should only be charged if goods are destined for Ireland or the EU Single Market more broadly, or if there is a **genuine and substantial risk of them ending up there**" [our emphasis].

The CP also states that the Government will "make full use of the provisions in the Protocol giving us the powers to waive and/or reimburse tariffs on goods moving from Great Britain to Northern Ireland, even where they are classified as 'at risk' of entering the EU market". This position could potentially become a substantial financial commitment by the Government if the Joint Committee cannot come to a decision for some time after the transition period ends.

- **Fisheries**: The CP describes the decision on duties for fish and aquaculture products as a "technical exercise" and that the Government is "determined to ensure that fishers from Northern Ireland are not placed at any disadvantage either through customs duties or associated barriers".

- **Agricultural subsidies:** The CP states that the Joint Committee decision on the maximum ceiling of agricultural subsidies “should maintain the current allocation for supporting the agriculture and fishing industries in Northern Ireland, whilst also providing suitable flexibility to respond to any market uncertainty and disruption”.
- **EU oversight:** The CP states that the UK Government is ready to discuss practical working arrangements, “which are proportionate and strictly limited to what is required to ensure the proper functioning of the Protocol”, and that it will not accept “any return to the concept of joint controls”. The CP states that the UK Government will not agree to a permanent EU presence in Northern Ireland as it would be “divisive in political and community terms”. For more detail on discussions between the UK and the EU on this matter see the table in the next section.
- **Other decisions:** Beyond the decisions explicitly mentioned in the Protocol, the CP proposes some other decisions it hopes the the Joint Committee could make that would help make trade easier between Great Britain and Northern Ireland after the transition period ends:
 - **Export and exit summary declarations:** The CP states that in the Government’s view it “makes no sense” for businesses in Northern Ireland to complete export or exit summary declarations (these are customs forms) – when they send goods to the rest of the UK, as they will not be entering the EU’s Single Market, and will be subject to other checks en route to their destination. These forms are required under the EU’s Customs Code, which the Protocol states applies to Northern Ireland (Article 5(3) NIP). As this is a piece of EU law, it seems that it would be for the EU to decide if such a waiver could be made. While the UK could request such a waiver, it may not be something the Joint Committee can decide. Rather it would be a decision of the EU subject to its own internal procedures, if it was minded to make such a change.
 - **Agri-food checks:** The UK Government acknowledges in the CP that some checks on agri-food moving from Great Britain to Northern Ireland will be required. It goes on to say that the process and frequency of checks required will need to be discussed with the EU in the Joint Committee “within the context of the provision in the Protocol that both parties must use their ‘best endeavours’ to avoid controls at Northern Ireland ports as far as possible”. Article 6 (2) NIP) does state that the two sides “shall use their best endeavours to facilitate the trade between Northern Ireland and other parts of the United Kingdom, in accordance with applicable legislation and taking into account their respective regulatory regimes as well as the implementation thereof”. The EU’s laws on checks on agri-food are contained in Annex 2 of the Protocol and will apply to Northern Ireland. Therefore, it again seems likely that the EU would need to decide if it would consider changing the application and/or interpretation of these laws in order to avoid checks.

3. Table of Joint Committee tasks

The table below sets out the tasks to be undertaken by the Joint Committee, with dates for completion and further background and information on relevant developments.

Tasks of the Withdrawal Agreement Joint Committee and Specialised Committees

| Task | Status | Deadline | Notes and update |
|---|----------|------------------------------------|--|
| <p>Joint Committee to decide on the tasks of the six Specialised Committees and supervise their work</p> <p>(Article 164 WA)</p> | Complete | | <p>The WA establishes six Specialised Committees on: citizens' rights; separation provisions; financial provisions; implementation of the Protocol on Ireland/Northern Ireland (NIP); implementation of the Protocol on the Sovereign Base Areas in Cyprus; and implementation of the Protocol on Gibraltar. The tasks of these Specialised Committees were decided at the first meeting of the Joint Committee on 30 March. Five of the six Specialised Committees have met. The Specialised Committees have no decision-making powers but can put forward draft recommendations and decisions to be taken by the Joint Committee. There is also a Joint Consultative Working Group on the implementation of the Protocol on Ireland/Northern Ireland which operates under the supervision of the Specialised Committee on the NIP.</p> |
| <p>Joint Committee decision on extending the transition period</p> <p>(Article 132 WA)</p> <p><i>A decision would only be taken if one of the parties requested an extension. If there was a decision to extend, the Joint Committee would:</i></p> | Complete | <p>Before 1 July 2020 (Passed)</p> | <p>Section 15A of the EU (Withdrawal) Act 2018 (as amended by section 33 of the EU (Withdrawal Agreement) Act 2020) prohibits a Minister from agreeing to an extension of the transition period in the Joint Committee.</p> <p>The UK Government informed the EU at the Joint Committee meeting on 12 June that it will not seek or agree to an extension of the transition period. The Council of the EU adopted conclusions on EU-UK relations on 25 June taking note of the UK decision not to request an extension and its intention to refuse one if requested by the EU. It noted that this means that the transition period will end on 31 December 2020.</p> |

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| <ul style="list-style-type: none"> • <i>Establish the UK’s contribution to the EU budget during any extended transition period</i> • <i>Specify the limits on non-trade distorting agricultural subsidies the UK can make during any extended transition</i> • <i>Agree “any other measures” necessary during an extended transition e.g. the terms of UK participation in EU programmes from 2021 (Article 132 WA)</i> | | | |
| <p>Joint Committee to establish a list of 25 people to serve on an arbitration panel (ten proposed by the UK, ten by the EU, plus five jointly proposed panel chairs)</p> <p>(Article 171 WA)</p> | <p>Decision needed this year</p> | <p>31 Dec 2020</p> | <p>The Joint Committee is the primary body for resolving any dispute concerning the interpretation and application of the WA, based on “good faith” consultations with a view to reaching a mutually agreed solution. The arbitration panel steps in at the request of either party if no mutually agreed solution can be found within 3 months from the start of formal Joint Committee consultations (sooner if the EU and UK so agree).</p> <p>Section 30 of the EU (Withdrawal Agreement) Act 2020 imposes certain obligations on Ministers to report to Parliament in the event of arbitration or consultations within the Joint Committee to resolve a dispute on the interpretation or application of the WA.</p> |
| <p>Joint Committee given powers to revise parts of Annex I of the WA on social security coordination</p> <p>(Article 36 WA)</p> | <p>Ongoing task</p> | | <p>The revisions would incorporate changes to certain EU laws on the coordination of social security systems agreed after transition (so they would apply to all EU citizens/UK nationals within the scope of Part Two of the WA on citizens’ rights), but the Joint Committee has a discretionary power to decide <i>not</i> to incorporate changes which are not necessary for the good functioning of the social security coordination system (so incorporation is the default</p> |

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| | | | unless both parties agree otherwise). The revisions would also incorporate any new decisions or recommendations adopted by the Administrative Commission (in which the UK will have observer status). |
| Joint Committee to determine how to address differences between estimated and “actual costs” incurred by the EU for facilitating continued UK access to EU customs, excise and VAT systems after transition in the event of a dispute (Articles 50, 53, 99 and 100 WA) | Decision only needed if there is a dispute, from 1 January 2021 | | Article 8 WA prevents the UK from accessing any EU networks, information systems or databases after transition. Access may be permitted to the EU’s customs, excise and VAT systems listed in Annex IV of the WA for a limited period where “strictly necessary” to enable the UK to comply with its obligations under the WA. The time limits for access to each system range from 6 January 2021 to 20 February 2026. |
| Joint Committee to determine how to address differences between estimated and “actual costs” incurred by the EU for facilitating continued UK access to EU justice and home affairs databases for a temporary period after transition in the event of a dispute (Articles 62 and 63 WA) | Decision only needed if there is a dispute, from 1 January 2021 | | Article 8 WA prevents the UK from accessing any EU networks, information systems or databases after transition. The UK may, however, access the EU’s Secure Information Exchange Network Application (SIENA) for no more than one year after transition where strictly necessary to exchange information within joint investigation teams. The UK may also use the communication infrastructure for the Schengen Information System for no more than three months after transition where strictly necessary to exchange supplementary information. |
| Joint Committee may adopt technical measures to facilitate the orderly closure of programmes or activities in which the UK participates and which are funded by the EU’s Multiannual Financial Framework 2014-20 (or earlier MFFs) | Ongoing task from January 2021 | | This is an enabling power. Any action the Joint Committee does take must respect the principle of sound financial management and must not result in an advantage for the UK or UK beneficiaries compared to Member States or third countries participating in the same programmes and activities financed by the EU budget. |

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| (Article 138 WA) | | | |
| Joint Committee to assess the functioning of the Independent Authority established to monitor the implementation of Part Two of the WA (on Citizens' Rights) in the UK and decide whether the UK can abolish it | Not yet applicable | Not before 1 January 2029 | The Joint Committee can begin its assessment "no earlier than 8 years after the end of the transition", with any decision on abolition following the assessment. |
| (Article 159 WA) | | | |
| Joint Committee the exclusive forum for "good faith" consultations between the EU and UK to resolve any dispute regarding the interpretation and application of the WA (Article 169 WA) | Ongoing task from 1 January 2021 | | If no mutually agreed solution can be reached within 3 months of the formal start of consultations, the EU or UK may request the establishment of an arbitration panel (sooner if both agree). |
| Joint Committee to keep the functioning of the WA dispute settlement procedures "under constant review" and may amend the Rules of Procedure on dispute settlement in Annex 9 to the WA (Article 172 WA) | Ongoing task from 1 January 2021 | | |

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| Protocol on Ireland/Northern Ireland (NIP) Joint Committee decisions | | | |
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| <p>Joint Committee to decide:</p> <ul style="list-style-type: none"> the conditions under which a good brought into NI from outside the EU is considered <i>not</i> to be subject to commercial processing (taking into account the nature, scale and result of the processing); and the criteria for determining whether a good brought into NI from outside the EU is <i>not at risk</i> of being subsequently moved into the EU <p>(Article 5(2) NIP)</p> | <p>Decision needed this year</p> | <p>31 Dec 2020</p> | <p>Article 5(1) NIP establishes the basic principle that:</p> <ul style="list-style-type: none"> no customs duties are payable on goods directly transported to NI from another part of the UK (intra-UK goods) <i>unless</i> that good (by itself or as part of another good after processing) is at risk of subsequently being moved into the EU; and UK customs duties apply to goods directly transported to NI from outside the UK or EU (extra-UK/EU goods) <i>unless</i> that good (by itself or as part of another good after processing) is at risk of subsequently being moved into the EU. <p>Article 5(2) NIP creates a presumption that goods brought into NI from outside the EU <i>are at risk</i> of subsequently being moved into the EU <i>unless</i> it is established that the good (i) will not be subject to commercial processing in NI <i>and</i> (ii) fulfils certain criteria established by the Joint Committee. These criteria must take into account: (i) the final destination and use of the good; (ii) the nature and value of the good; (iii) the nature of the movement; and (iv) the incentive for undeclared onward movement into the EU.</p> <p>The Joint Committee can amend decisions taken under Article 5(2) “at any time”.</p> <p>The first meeting of the Specialised Committee on the implementation of the NIP on 30 April discussed preparatory work for future decisions to be taken by the Joint Committee.</p> |
| <p>Joint Committee to decide the conditions under which certain fishery and aquaculture products brought into the EU’s customs territory by UK-flagged</p> | <p>Decision needed</p> | <p>No deadline stated (but see notes).</p> | <p>NIP does not specify a deadline by which this decision must be made. If a decision is not made by the end of the transition period on 31 December 2020, these products will be treated as if they originated from Great Britain (the rest of the UK), and will potentially be subject to customs duties (tariffs).</p> |

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| ships registered in NI are to be exempt from customs duties (Article 5(3) NIP) | | | |
| Joint Committee to keep under constant review the UK/EU's "best endeavours" to facilitate trade between NI and the rest of the UK, and make recommendations with a view to avoiding controls at ports/airports in NI to the extent possible (Article 6 NIP) | Ongoing task from 1 January 2021 | | Article 6(1) NIP provides: "Nothing in this Protocol shall prevent the UK from ensuring unfettered market access for goods moving from Northern Ireland to other parts of the United Kingdom's internal market." The goal of protecting "Northern Ireland's integral place in the United Kingdom's internal market" will underpin much of the discussion and inform many of the decisions or recommendations made by the Joint Committee under the NIP. |
| Joint Committee to "regularly discuss" the implementation of EU VAT and excise rules in NI and adopt measures for their proper application as necessary. (Article 8 NIP) | Ongoing task from 1 January 2021 | | The Joint Committee may also review the application of Article 8 of the NIP on VAT and excise and, taking into account Northern Ireland's integral place in the UK's internal market, adopt appropriate measures as necessary. |
| Joint Committee to decide on the level of subsidy the UK can make to support agricultural production in Northern Ireland (Article 10(2) and Annex 6 NIP) | Decision needed (and subsequent decisions required following the agreement of a new Multiannual | No deadline stated (but see note). | NIP does not require an initial decision to be taken by a particular date. However, if an initial decision has not been made by the end of the transition period on 31 December 2020, UK agricultural subsidies made in Northern Ireland could be subject to EU state aid rules. Similarly, should the Joint Committee fail to make a decision within 1 year of a future Multiannual Financial Framework (MFF) being agreed, the UK's agricultural subsidies could be subject to the EU's state aid regime. |

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| | Financial Framework (MFF) | | <p>Further decisions will be needed to adapt subsidies to changes in the support made available under the EU's Common Agricultural Policy each time a new MFF is agreed.</p> <p>If the Joint Committee cannot reach a decision, all subsidies/support for agricultural production in Northern Ireland will be subject to EU state aid rules until a decision can be made.</p> |
| <p>Joint Committee to keep under constant review the extent to which the application of the NI Protocol maintains the necessary conditions for North-South cooperation, with a power to make appropriate recommendations to the EU and the UK</p> <p>(Article 11 NIP)</p> | Ongoing task from 1 January 2021 | | <p>Section 24 of the EU (Withdrawal Agreement) Act 2020 prevents a UK Minister from agreeing to any Joint Committee recommendation under this Article which would alter the arrangements for North-South cooperation provided for in the Good Friday Agreement, establish a new implementation body, or alter the functions of an existing implementation body.</p> |
| <p>Joint Committee to determine the practical arrangements by which EU representatives may “be present” during, and access information relating to, the UK’s implementation of the NI Protocol</p> <p>(Article 12(3) NIP)</p> | Decision needed | No deadline stated (but see note). | <p>NIP does not give a deadline for this decision. However, it may make relations between the UK and the EU more difficult if this is not resolved by the end of the transition period on 31 December 2020.</p> <p>The EU and UK disagree on whether Article 12 necessitates a permanent EU presence in Belfast:</p> <p>See Letter of 27 April 2020 from the Paymaster General (Penny Mordaunt) to Michel Barnier.</p> |
| <p>Joint Committee to determine whether new EU acts adopted after transition which are within</p> | Ongoing task from 1 | | <p>If the Joint Committee cannot agree on the inclusion of a newly adopted EU act, it must “examine all further possibilities to maintain the good functioning” of the Protocol and “take any decision necessary to this effect”. If there is still</p> |

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| <p>the scope of the NIP (and do not amend or replace acts already listed in the Annexes to the Protocol) should be included in the relevant Annex.</p> <p>(Article 13(4) NIP)</p> | <p>January 2021</p> | | <p>no decision “within a reasonable time”, the EU may (after notifying the UK) take remedial measures.</p> |
| <p>Joint Committee role in relation to unilateral safeguard measures taken by the EU or the UK to address “serious economic, societal or environmental difficulties” arising under the Protocol.</p> <p>(Article 16 and Annex 7 NIP)</p> | <p>Ongoing task from 1 January 2021</p> | | <p>Article 16 NIP allows the EU or the UK to take “appropriate” unilateral safeguard measures if the application of the Protocol leads to “serious economic, societal or environmental difficulties that are liable to persist, or to diversion of trade”. The measures must be “strictly necessary” (in terms of scope and duration) to remedy the situation and ensure the least disturbance to the functioning of the Protocol.</p> <p>Joint Committee to begin consultations to find a commonly acceptable solution <i>before</i> any unilateral measures are taken and, if taken, consult regularly on their removal or reduction.</p> |
| <p>Joint Committee role in making recommendations to the EU and UK on measures to be taken if the Northern Ireland Assembly decides to withhold consent to the continued application of Articles 5-19 of the NI Protocol.</p> <p>(Article 18 NIP)</p> | <p>Not yet applicable (earliest date Articles 5-19 could be disapplied is 1 January 2025)</p> | | <p>Before making any recommendations, the Joint Committee may seek an opinion from the institutions created by the 1998 Belfast (Good Friday) Agreement.</p> |

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